IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2007

Coram :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN
and
THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Writ Appeal Nos.1609 and 2052 of 2002

1.The State of Tamil Nadu
rep.by Secretary to Government
Industries Department
Madras - 9
2.The Collector
Dharmapuri
3.The Tahsildar,
Krishnagiri Taluk
Dharmapuri District. ... Appellants in W.A.No.1609 of 2002 and respondents in W.A.No.2052/2002

vs.

T.S.Jayakumar ... Respondent inWA.No.1609 of 2002 and appellant in W.A.No.2052 of 2002

Writ Appeals filed under clause 15 of the Letters Patent against the order dated 11.4.2002 made in writ petition No.20091 of 1994. to issue a Writ of Mandamus directing the respondent herein to compute the lease in favour of the petitioner herein for a period of 3 years from the date of actual handing over of the quarry to the petitioner herein in respect of blue metal quarry in S.NO.79/2, Byanapalli village in an extent of 5 hectares .

For Appellants : Mr.P.Subramanian,G.A.
in W.A.No.1609 of
2002 and respondents
in W.A.No.2052 of 2002

For Respondent : Mr.S.Silambanan
in WA.No.1609 of
2002 and appellant in
W.A.No.2052
of 2002

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JUDGMENT

(Judgment of the Court was delivered by
K.RAVIRAJA PANDIAN, J.)

These two writ appeals are filed against the same order passed by the learned single Judge dated 11.4.2002 made in writ petition No.20091 of 1994. The said writ petition was filed by the respondent in W.A.No.1609 of 2002 seeking for the relief of issuance of a writ of mandamus directing the Government of Tamil Nadu, District Collector, Dharmapuri and the Tahsildar, Krishnagiri Taluk, the respondents in the writ petition to compute the lease in favour of the writ petitioner for a period of three years from the date of actual handing over of the quarry to the writ petitioner herein in respect of blue metal quarry in S.No.79/2 Bynapalli village in an extent of 5 hectares.

2. For the sake of convenience, the parties are referred to as arrayed in the writ petition. The relief has been sought for by the writ petitioner on the basis that the respondents have caused a publication in the Dharmapuri District Gazette dated 14.12.1990 for leasing out the Government quarries for the period from 1.1.1991 to 31.12.1993. The auction in respect of the subject quarry was held on 22.1.1991. The confirmation in favour of the petitioner has been made on 9.2.1991. The confirmation order has been served on the petitioner on 9.4.1991. The writ petitioner has also paid balance amount of Rs.24,588/- on 28.11.1991. By letters dated 8.1.1992, 23.5.1992 and 16.7.1992, the petitioner has expressed his difficulty in commencing the quarrying operation. In spite of that, the lease deed was executed on 22.6.1999 and the lease deed was handed over to the petitioner for registration on 16.7.1993. Virtually, the lease deed came to be registered on 30.12.1993 a day prior to the expiry of the lease period. By stating so, the petitioner filed writ petition for extension of the period by three years.

3. The learned single Judge after taking into consideration of the arguments advanced on behalf of the counsel on either side and having regard to the factual issue and the statutory provision rejected the request for extension of period for three years sought for by the writ petitioner, however, granted the relief of refund of the amount deposited by the petitioner with 24 percent interest within four weeks from the date of receipt of copy of the order.

4. The petitioner aggrieved by that order filed Writ Appeal in W.A.NO.2052 of 2002 and the Government aggrieved by that portion of order directing refund of the amount deposited by the petitioner with interest has filed W.A.No.1609 of 2002.

5. We heard the argument of the learned counsel appearing on either side and perused the materials on record.

6. Learned Government Advocate appearing for the appellant has very much concentrated his argument about the tactics played by the lease holder in delaying the execution of the lease deed by placing on record the letters dated 8.1.1992, 23.5.1992 and 16.7.1992, whereby the successful bidder has expressed his inability to comply with the

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conditions for execution of the lease deed because of his illness.

7. We have anxiously gone through the various dates given by the Government Advocate. Except for the period from 8.1.1992 to 16.7.1992 for six months, even though the delay is attributable to the lease holder, in respect of the other period, absolutely there is no explanation, what so ever, from the respondent - Government for non-execution of the lease deed. If the highest bidder is not able to comply with or rather refused to comply with the conditions of lease or the statutory provision governing the lease, the statute gives ample power to the Collector to cancel the lease and bring the quarry for public auction once again so as to augment the income of the Government. The Collector leaving all these statutory powers waited upto the last date for execution of the lease deed and thereafter got it registered a day prior to the expiry of the lease deed. The action of the appellant - Collector cannot be appreciated, particularly, when there are statutory provisions available in the Tamil Nadu Minor Mineral Concession Rules to reject or revoke the lease granted in favour of the successful bidder, if the successful bidder is not in a position to comply with the statutory requirement of payment of balance lease amount for execution of lease deed within the period stipulated therein. The Collector has not followed that procedure and allowed the lessee to be remained idle and got the lease deed executed on penultimate date, which is not expected of from the Collector. Hence, the order of the learned single Judge directing the District collector to refund the amount deposited by the successful bidder cannot be regarded as a one, which is illegal or irregular. At the same time, the prayer of the successful bidder for execution of the lease deed beyond the period for which it was brought to public auction also cannot be granted, as the period for which it was brought to public auction was already over and now that the area would fetch more amount in several manifold. But we are of the considered opinion that while we are giving our approval to the order of the learned single Judge, who passed the order directing the respondents to refund the amount to the petitioner, we are not able to approve the rate of interest directed to be calculated on the amount deposited, which is as high as 24 percent, which is not at all prevalent for the past ten years. Hence, we are of the view that it would meet the ends of justice if the interest is reduced to 12 percent.

8. Accordingly, the writ appeals are disposed of modifying the order passed by the learned Single Judge to the limited extent granting rate of interest at 12 percent instead of 24 percent on the amount deposited by the lessee. However, there is no order as to costs.

usk

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   Industries Department
   State of Tamil Nadu
   Madras - 9

2.The Collector
   Dharmapuri

3. The Tahsildar,
   Krishnagiri Taluk
   Dharmapuri District.

+ 1 cc to Govt.pleader SR.NO.46474

MRD (co)
RD 10.8.07

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